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# ***Public Utilities Commission of the State of California***

## ***Results of Public Agenda 3125***

***Meeting Held on Thursday, December 18, 2003 9:00 a.m.***

***San Francisco, California***

### **Commissioners**

**Michael R. Peevey, President**

**Geoffrey F. Brown**

**Susan P. Kennedy**

**Loretta M. Lynch**

**Carl W. Wood**

*Website: <http://www.cpuc.ca.gov>*

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### **Scheduled Commission Meetings**

**505 Van Ness Avenue, San Francisco**

<i>Ratesetting Deliberative Meeting*</i> <i>Room 5305</i> <i>(1:30 p.m.)</i> <b><i>Closed to the Public</i></b>	<i>Commission Meeting</i> <i>Auditorium</i> <i>(10 a.m.)</i> <b><i>Open to the Public</i></b>
Monday, January 05, 2004 (San Francisco)	Thursday, January 08, 2004 (San Francisco)
Friday, January 16, 2004 (San Francisco)	Thursday, January 22, 2004 (San Francisco)
Friday, February 06, 2004 (San Francisco)	Wednesday, February 11, 2004 (San Francisco)
Monday, February 23, 2004 (San Francisco)	Thursday, February 26, 2004 (San Francisco)

*\*Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

For further information contact the Public Advisor  
(415) 703-2074 E-mail: [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov)



This location is accessible to people with disabilities. If specialized accommodations for the disabled are needed, e.g. sign language interpreters, please call the Public Advisor at (415) 703-2074 or TTY# (415) 703-5282 or toll free # 1-866-836-7825 three business days in advance of the meeting.

## **PUBLIC COMMENT**

**The following items are not subject to public comment:**

- **All items on the closed session agenda; these are HEX and EX items.**
- 

### **Public Comment:**

Re 53:

Alice Huffman, California NAACP, Sacramento, CA  
Connie Cochran, Greater Stockton Chamber of Commerce, Stockton, CA  
Ed Mainland, Sustainable Novato, Novato, CA  
Heidi Finberg, CEO, San Leandro Chamber of Commerce, San Leandro, CA  
John Maier, North Fork Ranchers of Mono Indians, Oakland, CA  
Jon Beck, Fairfax, CA  
Lew Tremaine, Fairfax, CA  
Mary Beth Brangan, Ecological Options Network, Marin, CA  
Pam Hartwell-Herrero, San Anselmo, CA  
Paul Fenn, Local Power, Oakland, CA  
Rebekah Collins, Marin Clean Alternative Now, Fairfax, CA

Re 59: Greg Kennedy, Occidental Power, San Francisco, CA

Re 60:

Ed Mainland, Sustainable Novato, Novato, CA  
Jon Beck, Fairfax, CA  
Mary Beth Brangan, Ecological Options Network, Marin, CA  
Pam Hartwell-Herrero, San Anselmo, CA  
Rory Cox, Pacific Environment, Oakland, CA  
Tomas Lee for Supervisor Tom Ammiano, San Francisco, CA

## **Consent Agenda**

*Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.*

### **Orders and Resolutions**

**1**

[2894]

**A03-04-002 - Citizens Telecommunications Company of California, Inc., dba Frontier Communications of California (Citizens).**

This decision requires Citizens to reimburse the Commission for the costs of an audit to be performed by consultants working for the Commission's Office of Ratepayer Advocates. In addition, the decision adopts an all-party settlement regarding modifications of the New Regulatory Framework (NRF) reporting requirements. Citizens is ordered to refile no later than 90 days after final decisions are adopted in R01-09-001 and I01-09-002, the NRF review for SBC California and Verizon California Incorporated. This proceeding is closed.

(Comr Peevey - ALJ O'Donnell)

Agenda 3124, Item 6 12/4/2003 (Peevey)

**Outcome Held (1/8/04, Consent Agenda.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**2**

[2850]

**Res ALJ 176-3125**

Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**3**

[2911]

**A03-05-034 - Watertek, Inc.**

Watertek, Inc., a family water service company, seeks Commission authorization to sell and transfer ownership of three small water systems, two of them near Porterville and one near Fresno. The prospective purchasers are experienced water system operators who have been operating the three water systems on a contract basis since April 2003. The Commission's Water Division has investigated the proposed transfer and recommends approval. The application is granted. This proceeding is closed.

(Comr Brown - ALJ Walker)

Agenda 3123, Item 15 11/13/2003 (Lynch);

Agenda 3124, Item 82 12/4/2003 (Wood)

**Outcome Held (1/8/04, Consent Agenda.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**4**

[2962]

**R98-07-037 - Order Instituting Rulemaking on the Commission's proposed policies and programs governing energy efficiency, low-income assistance, renewable energy and research development and demonstration.**

This decision denies the Petition for Modification of D01-03-073 to include turbo-expanders in the Assembly Bill 970 self-generation incentives program, filed by Mafi-Trench Corporation U.S.A. (Comr Lynch - ALJ Gottstein)

**Outcome Signed**[D03-12-036](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**5**

[2970]

**Res G-3356 - Southern California Gas Company (SoCalGas).**

This resolution approves SoCalGas' sharable earnings filings, which report SoCalGas' Performance-Based Ratemaking Mechanism results for 2001 and 2002. (Advice Letter (AL) 3167, filed July 1, 2002 and AL 3277, filed July 10, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**6**

[2972]

**P03-07-016 - Duke Energy North America (DENA).**

This decision denies DENA's petition requesting a determination from the Commission that auxiliary loads used at generating stations may be deducted from generation. The decision directs DENA, and other parties, to pursue this issue in appropriate rate design proceedings. This proceeding is closed. (Comr Kennedy - ALJ DeBerry)

**Outcome Signed**[D03-12-037](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**7**

[2974]

**A02-08-006 - Union Pacific Railroad Company.**

This decision approves an unopposed settlement reached by a majority of the parties in this proceeding for safety improvement of the at-grade crossing at Milepost 246.9 in the City and County of San Luis Obispo. The Commission also approves the proposed apportionment and assignment of the improvement costs. This proceeding is closed.

(Comr Kennedy - ALJ Rosenthal)

**Outcome Signed**[D03-12-038](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**8**

[2977]

**A98-01-014 - San Diego Gas & Electric Company.**

For authority to implement a distribution performance-based ratemaking mechanism. A95-06-002, A96-10-038, A02-12-027, A02-12-028 - Related matters. This decision grants extension of customer service performance standards but does not extend the related financial incentives.

A98-01-014, A95-06-002 and A96-10-038 are closed.

(Comr Brown - ALJ Minkin)

**Outcome Held (1/8/04, Consent Agenda. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**9**

[2978]

**A02-11-048 - Great Oaks Water Company (Great Oaks).**

This decision authorizes Great Oaks a \$482,054 revenue increase for total company operations for 2003, \$737 for 2004, and no increase for 2005 and 2006. This decision approves the Santa Teresa Project and related expenditures subject to Great Oaks filing an advice letter when the project is placed in service. This proceeding is closed.

(Comr Brown - ALJ Grau)

**Outcome Signed**[D03-12-039](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**10**

[2980]

**Res T-16784**

This resolution adopts a total Calendar Year 2004 California High Cost Fund-A support of \$30,395,320 for the following 17 small Local Exchange Carriers: Calaveras Telephone Company (Advice Letter (AL) 268, filed September 30, 2003), California-Oregon Telephone Company (AL 286, filed September 30, 2003), Citizens Telecommunications Company of the Golden State (AL 151, filed September 30, 2003), Citizens Telecommunications Company of Tuolumne (AL 140, filed September 30, 2003), Ducor Telephone Company (AL 289, filed September 30, 2003), Evans Telephone Company (AL 347, filed September 30, 2003), Foresthill Telephone Company (AL 237, filed October 2, 2003), Happy Valley Telephone Company (AL 265, filed September 30, 2003), Hornitos Telephone Company (AL 234, filed September 30, 2003), Kerman Telephone Company (AL 321, filed September 30, 2003), Pinnacles Telephone Company (AL 199, filed September 30, 2003), The Ponderosa Telephone Company (AL 327, filed October 1, 2003), Sierra Telephone Company (AL 315, filed September 30, 2003), Siskiyou Telephone Company (AL 317, filed September 26, 2003), Verizon West Coast Incorporated (AL 597, filed October 1, 2003), Volcano Telephone Company (AL 304, filed September 30, 2003), and Winterhaven Telephone Company (AL 156, filed September 30, 2003).

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**11**

[2981]

**Res T-16793**

This resolution adopts a recasted fiscal year (FY) 2003-04 budget of \$47.78 million and a FY 2004-05 budget of \$47.87 million for the California High Cost Fund-A Administrative Committee Fund. For the funding of these adopted budgets, a revised surcharge rate of 0.17% shall take effect on January 1, 2004.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**12**

[2982]

**A03-04-015 - Park Water Company, Central Basin Division.**

This decision authorizes Park Water Company, Central Basin Division's general rate case increases for Test Year 2004 and 2005 and Attrition Year 2006. This proceeding is closed.

(Comr Wood - ALJ Walker)

**Outcome Signed**

[D03-12-040](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**13**

[2984]

**Res T-16794**

This resolution adopts a recast budget of \$520.472 million for Fiscal Year (FY) 2003-04, a budget of \$438.866 million for FY 2004-05 and a revised surcharge rate of 2.2% effective January 1, 2004 for the California High Cost Fund - B Administrative Committee Fund until further revised by the Commission. The recast FY 2003-4 budget includes up to \$39.0 million for payment of prior period claims.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**14**

[2985]

**Res T-16795**

This resolution adopts a recasted fiscal year (FY) 2003-04 budget of \$245.034 million and a FY 2004-05 budget of \$251.637 million for the Universal Lifeline Telephone Service Trust Administrative Committee Fund. For the funding of these adopted budgets, a revised surcharge rate of 1.10% shall take effect on January 1, 2004.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**15**

[2988]

**Res M-4810**

This resolution recommends that the Commission retain fees levels set for the 2002-03 fiscal year for water and sewer system corporations, and telecommunications corporations. It recommends decreases for electric, gas and heat corporations to the levels last set for the 2001-02 fiscal year.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**16**

[2989]

**Res M-4811**

The fee levels set by this resolution for passenger vehicle operators, vessel operators, commercial air operators and pipeline corporations are unchanged from the fee levels set for fiscal year 2002-03. The fee level set for the railroad corporations reflect a \$44,000 reduction from the level set for fiscal year 2002-03.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**17**

[2993]

**Res T-16782**

This resolution adopts recasted California Teleconnect Fund Administrative Committee Fund fiscal year (FY) 2003-04 budget of \$34,645,000 and adopts a budget of \$38,682,000 for FY 2004-05. It continues the current surcharge rate of 0%.

**Outcome Approved**

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

**18 (Rev.)**

[3006]

**A00-11-038 - Southern California Edison Company.**

For authority to institute a rate stabilization plan with a rate increase and end of rate freeze tariffs. A00-11-056, A00-10-028, A99-01-016, A99-01-019, A99-01-034 - Related matters. This decision denies without prejudice The Utility Reform Network's pending request for compensation for legal fees and costs incurred in connection with judicial review of D99-10-057, D00-03-058, and D01-03-082.

(Comr Kennedy, Comr Lynch - ALJ Walwyn)

Agenda 3124, Item 29 12/4/2003 (Staff)

12/16/2003 - This revision was not shown on the Agenda mailed to the public.

**Outcome Signed**

[D03-12-041](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**19**

[3020]

**Res ST-68 - North San Diego County Transit District (NCTD).**

This resolution grants NCTD authority to deviate from the provisions of General Order 143-B, Section Nos. 4.03 Brake Rates, 5.02 Stop Lights, 6.01 Anti Climber, and 6.02 Corner Post requirements. The deviation is contingent on Commission staff verifying the safety certification and braking performance of the proposed vehicle.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)



**20**

[3026]

**Res T-16801**

This resolution revokes the Certificate of Public Convenience and Necessity for ACC Telecommunications LLC in accordance with D03-04-021, Ordering Paragraph 3.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**21**

[3027]

**A02-01-038 - Alameda Corridor - East Construction Authority (ACE).**

This decision grants ACE's request to modify D02-11-012, dated November 7, 2002, in A02-01-038, by substituting the warning devices previously authorized in D02-11-012, with the warning devices specified in the Petition for Modification. This proceeding is closed.

(Exam Clark)

**Outcome Signed**

[D03-12-042](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**22**

[3028]

**A03-03-001 - City of Oceanside (Applicant).**

This decision grants Applicant authority to construct a grade-separated pedestrian and bicycle-rail crossing under the southerly side of the existing North County Transit District's San Luis Rey River railroad bridge in the City of Oceanside, San Diego County. This proceeding is closed.

(Exam Clark)

**Outcome Signed**

[D03-12-043](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**23**

[3029]

**A03-03-023 - State of California, Department of Transportation (Caltrans).**

This decision grants Caltrans' request to construct a grade-separated highway-rail crossing between Arena Way and Peach Avenue in the City of Livingston, Merced County. This proceeding is closed.  
(Exam Clark)

**Outcome Signed**[D03-12-044](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**24**

[3030]

**A03-07-011 - State of California, Department of Transportation (Caltrans).**

This decision grants Caltrans' request to widen the existing Cajon Overhead, a grade-separated highway-rail crossing, on State Route 210 over The Burlingame Northern and Santa Fe Railroad Company's main line tracks in San Bernardino County. This proceeding is closed.  
(Exam Clark)

**Outcome Signed**[D03-12-045](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**25**

[3031]

**A03-07-012 - State of California, Department of Transportation (Caltrans).**

This decision grants Caltrans' request to construct a new freeway under the existing Muscoy Underpass, a grade-separated highway-rail crossing, on State Route 210 under the Union Pacific Railroad Company's "BB" line tracks in San Bernardino County. This proceeding is closed.  
(Exam Clark)

**Outcome Signed**[D03-12-046](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**26**

[3032]

**A03-07-048 - State of California, Department of Transportation (Caltrans).**

This decision grants Caltrans' request to replace the separated grade highway-rail crossing at US Route 101 in the City of Petaluma in Sonoma County. This proceeding is closed.

(Exam Clark)

**Outcome Signed**

[D03-12-047](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**27**

[3033]

**Res T-16802 - SBC California (SBC).**

This resolution authorizes SBC to decrease its annual revenues by \$3,928,000 effective January 1, 2004. (Advice Letter 24254, filed October 1, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**28**

[3034]

**Res T-16803 - Citizens Telecommunications Company of California, Incorporated (Citizens).**

This resolution authorizes Citizens to increase its annual revenues by \$69,109 effective January 1, 2004. (Advice Letter 815, filed September 30, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

## Closed Session

*This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the*

### Non-Federal

**78**

[3017]

**R01-08-028 - Conference with Legal Counsel – Application for Rehearing**

Disposition of Applications for Rehearing of D3-07-037 filed by Women’s Energy Matters (WEM) and Residential Energy Service Companies’ United Effort; WEM has also filed a request for oral argument and motion for stay. R01-08-028 examines the Commission’s future energy efficiency policies, administration and programs. In the fall of 2002, the California Legislature passed AB 117, authorizing any city, county or city and county, to aggregate the electrical loads of local customers. Such entities are designated: “Community Choice Aggregators” (CCA). AB 117 also added sections to the Public Utilities Code directing the Commission to establish policies and procedures by which any party, including a CCA, may apply to administer cost-effective energy efficiency and conservation programs. D03-07-034 is an interim decision. D03-07-034 is limited to issues regarding energy efficiency program fund disbursements. Among other things, D03-07-034 adopted skeletal rules for implementing provisions of AB 117 for energy efficiency program fund disbursements.

Agenda 3124, Item 67 12/4/2003 (Lynch)

**Outcome Held (1/8/04. Further consideration.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**79**

[3018]

**R01-10-024 - Conference with Legal Counsel – Application for Rehearing**

Disposition of applications for rehearing of D03-06-071 filed by Pacific Gas and Electric Company and Southern California Edison Company. In D03-06-071, the Commission initiated implementation of Senate Bill 1708, which established the California Renewables Portfolio Standard Program.

Agenda 3124, Item 68 12/4/2003 (Staff)

**Outcome Signed**

D03-12-065

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**80**

[3047]

**A02-07-025 - Conference with Legal Counsel - Application for Rehearing**

Disposes of the application for rehearing of decision D03-10-002 filed by the Bakman Water Company. D03-10-002 granted Bakman an increase in rates for its general rate case for test year 2000, and set rates under the operating ratio method at a 10 percent rate of margin.

**Outcome Signed**

D03-12-066

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**81**

[3049]

**A02-05-065 - Conference with Legal Counsel – Application for Rehearing**

Disposition of Application for Rehearing of D03-09-023 filed by the City of Richmond. D03-09-023 found that the installation of an upgraded warning and safety system at the at-grade crossing at Richmond Avenue in the City of Richmond would upgrade the crossing to acceptable safety standards set by the Commission and other state and federal agencies. The Commission ordered the Burlington Northern Santa Fe Railroad Company to undertake the work effective immediately, despite the protests of the City of Richmond, which opposed the replacement of the existing wigwag warning devices with the upgraded system.

**Outcome Held (1/22/04)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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## Consent Agenda

*Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.*

### Orders and Resolutions

- 29**                    **Res T-16804 - Verizon California, Incorporated (Verizon).**  
[3035]                This resolution authorizes Verizon to decrease its annual revenues by \$19,000,000 effective January 1, 2004. (Advice Letter 10621, filed October 1, 2003)  
**Outcome   Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 30**                    **Res T-16805 - Roseville Telephone Company (Roseville).**  
[3036]                This resolution authorizes Roseville \$0 increase to its annual revenues effective January 1, 2004. (Advice Letter 856, filed October 1, 2003)  
**Outcome   Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 31**                    **A03-08-026 - Granite Telecommunications, LLC (Applicant).**  
[3037]                This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange, and interexchange telecommunications services. This proceeding is closed.  
(Comr Brown - ALJ O'Donnell)  
**Outcome   Signed**  
[D03-12-048](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

**32**

[3038]

**Res E-3859 - Pacific Gas and Electric Company (PG&E).**

PG&E requests approval of amendment No. 6 of the Qualified Decommissioning Trust Agreement and amendment No. 3 of the Nonqualified Decommissioning Trust Agreement pursuant to Section 2.12 of the Qualified Trust Agreement and Section 2.10 of the Nonqualified Trust Agreement. The amendments are for the Diablo Canyon generating station and Humboldt Bay nuclear unit No. 3, and reflect the changes required by the Nuclear Regulatory Commission. Granted. (Advice Letter 2444-E, filed November 21, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**33**

[3039]

**Res W-4444 - Hillview Water Company (HWC).**

This resolution authorizes HWC an offset rate increase of \$58,602 or 7.58% in additional revenue due to purchased power costs. (Advice Letter 71, filed October 28, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**34**

[3040]

**Res W-4445 - Stirling Bluffs Corporation (SBC).**

This resolution authorizes SBC a one-time surcharge to recover an increase in water testing costs producing an increase in annual revenue of \$937.50 or 2.63%. (Advice Letter 40, filed October 31, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**35**

[3041]

**Res T-16798 - SBC California (SBC).**

This resolution approves a Resale Agreement between SBC and GTC Telecom, in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 24256, filed October 2, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**36**

[3042]

**Res T-16799 - SBC California (SBC).**

This resolution approves an Interconnection Agreement between SBC and Easton Telecom Services, LLC, in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 24280, filed October 14, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**37**

[3043]

**Res ST-67 - San Francisco Municipal Railway (MUNI).**

This resolution grants MUNI to deviate from side clearance requirements of GO 143-B, Title 9.06, C.2. in the construction and operation of its Third Street Light Rail Line at two half grand unions at 25th and Third Streets and at Cesar Chavez and Third Streets.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**38**

[3044]

**Res W-4446 - Southern California Water Company (SCWC), Region III.**

This resolution authorizes SCWC, Region III a surcharge over a 24-month period to amortize the undercollection balances in its purchased power, purchased water, and pump tax balancing accounts producing additional annual revenues of \$1,340,887 or 2.02%. (Advice Letter 1132-W, filed September 12, 2003)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)



**39**

[3045]

**Res G-3361 - Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Gas Company (SoCalGas), and Southwest Gas Corporation (Southwest).**

This resolution adopts gas public purpose program surcharge rates as directed by Assembly Bill 1002 for the service territories of PG&E, SoCalGas, SDG&E, as well as for other gas public utilities under the Commission's jurisdiction for year 2004. The resolution approves PG&E's, SDG&E's, SoCalGas' and Southwest's requests. (PG&E Advice Letter (AL) 2488-G, filed September 30, 2003 and AL 2488-G-A, filed November 14, 2003. SDG&E AL 1343-G, filed October 16, 2002. SoCalGas AL 3197, filed October 15, 2003. Southwest AL 695, filed September 12, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**40**

[3046]

**A03-10-029 - Zlatko Malicevic, dba Zack's Airport Shuttle (Applicant).**

This decision authorizes Applicant to operate as a passenger stage corporation between the Counties of San Francisco, Alameda, Contra Costa, Santa Clara, Solano, Marin, and San Mateo and the International Airports of San Francisco, Oakland, and San Jose, and to establish a zone of rate freedom. This proceeding is closed.

(Exam Clark)

**Outcome Signed**

[D03-12-049](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**41**

[3048]

**A03-11-007 - NUI Telecom, Inc.**

This decision authorizes NUI Capital Corp. to transfer control of NUI Telecom, Inc. to Telecom Acquisition Company, LLC. This proceeding is closed.

(Comr Kennedy - ALJ Galvin)

**Outcome Signed**

[D03-12-050](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**42**

[3051]

**R02-11-039 - Rulemaking to implement the provisions of Public Utilities Code Section 761.3 enacted by Chapter 19 of the 2001-02 Second Extraordinary Legislative Session.**

This order grants the October 14, 2003 motion of Sempra Energy. Sempra Energy is removed from the list of respondents, and removed from the service list. This proceeding remains open.

(Comr Wood - ALJ Mattson)

**Outcome Held (1/8/04. Further review & possible alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**43**

[3056]

**A01-09-062 - California Water Service Company.**

For an order authorizing it to increase rates charged for water service at each of its operating districts to recover increased operating expenditures at its general office. A01-09-063, A01-09-064, A01-09-065, A01-09-066, A01-09-067, A01-09-068, A01-09-069, A01-09-070, A01-09-071, A01-09-072, A01-09-073, A01-09-074 - Related matters. This decision grants Aglet Consumer Alliance's intervenor compensation request of \$44,454.44 for its substantial contribution to D03-09-021.

(Comr Kennedy - ALJ Bushey)

**Outcome Signed**

[D03-12-051](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**44**

[3057]

**A03-07-051 - Pacific Terminals LLC (PT).**

This decision authorizes PT to refinance \$167 million of short-down debt with \$100 million of secured debt that matures in 2007 and \$67 million of equity capital. This proceeding is closed.

(Comr Kennedy - ALJ Kenney)

**Outcome Signed**

[D03-12-052](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**45**

[3065]

**A01-10-030 - Pacific Gas and Electric Company PG&E), San Diego Gas & Electric Company (SDG&E), Southern California Edison Company (SCE), California Power Exchange Coportation (Power Exchange), and PX Restructuring Trust (PX Trust).**

This decision grants the unopposed application of PG&E, SDG&E, SCE, Power Exchange, and PX Trust (jointly, applicants) for Commission approval of the wind-down and dissolution of the PX Trust. This proceeding is closed.

(Comr Kennedy - ALJ DeUlloa)

**Outcome Signed**[D03-12-053](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**46**

[3067]

**A03-08-015 - Symtelco, LLC (Applicant).**

This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange telecommunications services, and resold interexchange services. Applicant is exempt from filing interexchange tariffs. This proceeding is closed.

(Comr Brown - ALJ O'Donnell)

**Outcome Signed**[D03-12-054](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**47**

[3068]

**A03-09-036 - Amcom Communications Corporation (Applicant).**

This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange and interexchange services. This proceeding is closed.

(Comr Brown - ALJ O'Donnell)

**Outcome Signed**[D03-12-055](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**89 (Rev.)**

[3085]

**Res L-309**

This resolution authorizes the disclosure of Commission records of the investigation of the death of Jose Antonio Corona on December 3, 2001, pursuant to Public Utilities Code 583. This item is added to the Agenda pursuant to Government Code Section 11125.3 (a)(2).

12/16/2003 - This item was not listed on the agenda distributed to the public.

**Outcome    Approved (Voted 4-0 to add this item late pursuant to Gov't. Code Section 11125.3(a)(2). Comr. Lynch was necessarily absent for the Section 11125.3(a)(2) vote only.)**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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## Regular Agenda

### Energy Orders

**48**

[2865]

**A02-12-033 - Pacific Gas and Electric Company and William L. Brickner.**

For an Order authorizing the sale and conveyance of a certain parcel of land in Alameda County pursuant to the Public Utilities Code Section 851. This decision approves transfer of transmission-related property but declines to assign "gain-on-sale" proceeds. This proceeding is closed.

(Comr Brown - ALJ Thorson)

Agenda 3123, Item 6 11/13/2003 (Lynch);

Agenda 3124, Item 81 12/4/2003 (Lynch)

**Outcome Signed (Comr. Lynch will file a concurrence. Comr. Wood will file a concurrence.)**

D03-12-056

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**49**

[2870]

**R01-05-047 - Order Instituting Rulemaking on the Commission's own motion to determine whether baseline allowances for residential usage of gas and electricity should be revised.**

This decision adopts a program whereby lower-middle income households may be exempt from Tier 3 electric surcharges, requires baseline quantities to be adjusted to exclude seasonal residence usage, requires that residential common area accounts be given the option to switch to commercial service, and requires utilities to update their rates, if needed, to comply with AB 1X. This proceeding is closed.

(Comr Brown - ALJ TerKeurst)

Agenda 3123, Item 32 11/13/2003 (Staff);

Agenda 3124, Item 38 12/4/2003 (Staff)

**Outcome Held (1/8/04. Further deliberation.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**50**

[2943]

**A02-12-027 - Southern California Gas Company (SoCalGas).**

For authority to update its gas revenue requirement and base rates. A02-12-028, I03-03-016 - Related matters. This decision grants with modification the motion of SoCalGas and San Diego Gas & Electric for interim rate relief. It allows both companies to establish memorandum accounts to track, subject to refund, the revenue shortfall or actual sales until the Phase 1 decision for test year 2004 revenue requirements.

(Comr Wood - ALJ Long)

Agenda 3124, Item 43 12/4/2003 (Lynch)

**Outcome Signed**

[D03-12-057](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**51**

[2955]

**R02-06-041 - Order Instituting Rulemaking to require California Natural Gas and Electric Utilities to preserve interstate pipeline capacity to California.**

This decision establishes cost allocation methodologies for Pacific Gas and Electric Company, Southern California Gas Company, Southern California Edison Company, Southwest Gas Corporation, and San Diego Gas & Electric Company for the costs of the turned back capacity on El Paso Natural Gas Company's interstate pipeline that the utilities were ordered to procure pursuant to D02-07-037. This proceeding is closed.

(Comr Lynch - ALJ Brown)

Agenda 3124, Item 45 12/4/2003 (Staff)

**Outcome Held (1/22/04. Possible alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**52**

[2958]

**A01-06-041 - Sierra Pacific Power Company (Sierra).**

This decision grants Sierra a rate increase of \$3.02 million based on a settlement agreement of the parties. It increases rates by 8.8% to all customer classes except large commercial, which get no increase because their marginal costs are significantly below their current revenue allocation. This proceeding is closed.

(Comr Lynch - ALJ Barnett)

Agenda 3124, Item 46 12/4/2003 (Staff)

**Outcome Held (1/8/04)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**53**

[2983]

**I02-04-026 - Order Instituting Investigation into the ratemaking implications for Pacific Gas and Electric Company (PG&E) pursuant to the Commission's Alternative Plan of Reorganization under Chapter 11 of the Bankruptcy Code for PG&E, in the United States Bankruptcy Court, Northern District of California, San Francisco Division, In re Pacific Gas and Electric Company, Case No. 01-30923 DM.**

This decision rejects the Proposed Settlement Agreement (PSA) offered by PG&E, PG&E Corporation, and the Commission staff. The reasons for rejection include: 1) it purports to bind the Commission for nine years, 2) it unnecessarily cedes Commission jurisdiction to the Bankruptcy Court, 3) it guarantees PG&E an investment grade credit rating for nine years, and 4) it guarantees PG&E's dividends for nine years. This decision approves a Modified Settlement Agreement which deletes the rejected conditions and approves all the other financing arrangements of the PSA, including a monetary settlement of \$7.2 billion which includes a regulatory asset of \$2.21 billion.

(Comr Peevey - ALJ Barnett)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**53a**

[2995]

**ALTERNATE TO ITEM 2983**

This alternate adopts the Proposed Settlement Agreement, as offered by Commission staff and Pacific Gas and Electric Company.

(Comr Peevey)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**53b (Rev.)**

[2996]

**ALTERNATE TO ITEM 2983**

This revised alternate modifies the Proposed Settlement Agreement of the Commission staff and Pacific Gas and Electric Company (PG&E), and approves the modified settlement. In accordance with the Joint Reply Comments of PG&E and The Utility Reform Network (TURN), this revised alternate incorporates the proposal put forward by TURN and PG&E in their joint comments. Among other things, that proposal: 1) deletes the provision of the PSA that calls for PG&E to reimburse PG&E Corporation for its professional fees and expenses incurred in connection with the Chapter 11 proceeding and 2) includes the proposal to allow use of a securitized financing backed by a dedicated rate component (DRC), by providing for a DRC to be used to refinance the Regulatory Asset, once PG&E emerges from Chapter 11, and assuming that authorizing legislation satisfactory to the Commission, TURN, and PG&E is passed and signed into law. The revised alternate, as did the original alternate, also, among other things, deletes Paragraph 6 of the PSA (restricting Commission discretion on future dividend practices of PG&E) and adds funding for environmental enhancements and clean energy technology. The revised alternate also includes certain clarifications requested by other governmental agencies in their comments.

(Comr Brown, Comr Peevey)

12/17/2003 - This revision was not shown on the Agenda mailed to the public.

**Outcome Signed as Modified (Changes to Appendices B & C. Comr. Brown will file a concurrence.**

**Comr. Lynch will file a dissent. Comr. Wood will file a dissent.)**

[D03-12-035](#)

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

**53c**

[3058]

**ALTERNATE TO ITEM 2983**

This alternate reduces the amortization period for the regulatory asset from nine years to five years, clarifies the settlement regarding shareholder payment of PG&E Corp. litigation costs and CPUC oversight of the Land Conservation Commitment, requires PG&E to refund to ratepayers \$96 million from disallowed shareholder owned gas hedging contract costs, sets allowable 2003 headroom revenues allowed for bankruptcy purposes at \$775 million, and clarifies releases requested by the Attorney General.

(Comr Brown)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)



**53d**

[3060]

**ALTERNATE TO ITEM 2983**

This alternate rejects the proposed settlement agreement because it unreasonably burdens PG&E's ratepayers with high rates for the next nine years, and contains numerous provisions that are illegal and not in the public interest. This alternate approves a modified settlement that would follow an "Edison-style" model - maintaining rates at their current level until PG&E's undercollection is reduced to zero. The Modified Settlement Agreement (MSA) approved in this alternate avoids all the legal infirmities of the PSA and provides a significant and lasting rate decrease of at least 1.6 cents per Kwh starting in 2005. The MSA in this alternate provides a simple means for PG&E to pay its undercollection, become creditworthy, and emerge from bankruptcy in 2005.

(Comr Lynch)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**53e**

[3061]

**ALTERNATE TO ITEM 2983**

This alternate modifies the Proposed Settlement Agreement of the Commission staff and Pacific Gas & Electric Company and approves the modified settlement. The alternate, among other things, (1) adopts a regulatory asset of \$1.2 billion amortized over 4 years with a straight-line amortization schedule, (2) deletes Paragraph 6 restricting Commission discretion on future dividend practices of PG&E, (3) adds funding for environmental enhancements and clean energy technology and (4) adds a provision to Paragraph 3 (Ratemaking Matters) that if the PG&E Corp. in any matter prevents the utility from achieving target credit ratios, the Commission may take necessary steps to address the drag on credit ratings.

(Comr Wood)

**Outcome Defeated**

Yes: (Lynch, Wood)

No: (Brown, Kennedy, Peevey)

Abstain: (none)

Absent: (none)

**54**

[2990]

**A02-12-027 - Southern California Gas Company.**

For authority to update its gas revenue requirement and base rates. A02-12-028, I03-03-016 - Related matters. This decision grants eligibility that was requested in a Notice of Intent filed by Local 483 Utility Workers Union of America on March 29, 2003 and the Amended Notice filed on May 20, 2003. It addresses the requirements of the Pub. Util. Code §1804. The decision finds that Local 483 is eligible to request compensation in this proceeding because it does meet the statutory definition of "customer" specified in §1802(b).

(Comr Wood - ALJ Long)

**Outcome Signed**

D03-12-058

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (Brown)

Abstain: (none)

Absent: (none)

**55**

[2991]

**A02-12-027 - Southern California Gas Company.**

For authority to update its gas revenue requirement and base rates. A02-12-028, I03-03-016 - Related matters. This decision denies eligibility that was requested in a Notice of Intent filed by Local 483 Utility Workers Union of America on March 29, 2003 and the Amended Notice filed on May 20, 2003. It addresses the requirements of the Pub. Util. Code §1804. The decision finds that Local 483 is not eligible to request compensation in this proceeding because it does not meet the statutory definition of "customer" specified in §1802(b).

(Comr Wood - ALJ Long)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**56**

[2992]

**A03-07-032 - Southern California Edison Company (Edison).**

This decision authorizes Edison to acquire Mountainview Power Company, LLC (MVL) as a wholly-owned subsidiary of Edison and to enter into a power purchase agreement (PPA) with MVL for the purchase of electricity from Mountainview Power Project (Mountainview), subject to the conditions and modifications set forth herein. Although the Commission approves Edison's application for a Federal Energy Regulatory Commission jurisdictional PPA, with modifications, the Commission would prefer it if Edison sought authorization to purchase and own Mountainview as a utility owned generation project. If Edison pursues that option, the Commission will expedite the approval of a certificate of public convenience and necessity before the expiration of the option date of February 29, 2004. This proceeding is closed.

(Comr Peevey - ALJ Brown)

**Outcome Signed (Comr. Brown will file a concurrence. Comr. Wood reserves the right to file a concurrence.)**

[D03-12-059](#)

Yes: (Brown, Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)

**56a**

[3062]

**ALTERNATE TO ITEM 2992**

This alternate decision grants Edison a certificate of public convenience and necessity (CPCN), authorizing it to move forward with Mountainview as a utility-owned generation project, while denying Edison's proposed PPA with MVL. The decision finds that the requirements for a CPCN are met by this project - primarily determination of need and environmental review under the California Environmental Quality Act (CEQA), which was performed by the CEC in its siting review of the power plant. By granting this CPCN, the Commission authorizes Edison to exercise its option to purchase MVL in its entirety before the expiration of the option date, allows Edison to avoid seeking expedited review from FERC for the PPA and eliminates applicability of the Commission's affiliate transaction rules.

(Comr Lynch)

**Outcome Defeated**

Yes: (Lynch)

No: (Brown, Kennedy, Peevey, Wood)

Abstain: (none)

Absent: (none)

**57**

[2994]

**R01-08-028 - Order Instituting Rulemaking to examine the Commission's future energy efficiency policies, administration and programs.**

This decision approves statewide and local energy efficiency programs for a two-year period beginning in 2004. It disburses \$553.37 million to several companies, government agencies and organizations to undertake a variety of programs for residential, commercial and industrial customers. It also authorizes \$19.88 million for measurement and verification studies for the utilities' 2004-05 programs and other projects. These programs will be funded by "public goods charge" funds collected in 2004-05 and carried over from previous years.

(Comr Kennedy - ALJ Malcolm)

**Outcome Defeated**

Yes: (Kennedy, Peevey)

No: (Brown, Lynch, Wood)

Abstain: (none)

Absent: (none)

**57a**

[3064]

**ALTERNATE TO ITEM 2994**

Decision deferring selection of 2004 energy efficiency programs to February 11, 2004, and extending bridge funding for 2003 energy efficiency programs to that date. To ensure continuity of program services, this decision authorizes programs that would otherwise expire at the end of 2003 to continue through February 11, 2004, using electric and gas Public Goods Charge collections from that period.

(Comr Lynch)

**Outcome Signed**

[D03-12-060](#)

Yes: (Brown, Lynch, Wood)

No: (Kennedy, Peevey)

Abstain: (none)

Absent: (none)

**58**

[3002]

**A03-04-022 - Southern California Edison Company (SCE).**

This decision adopts a 2003 revenue requirement forecast of \$2.505 billion for SCE's Energy Resource Recovery Account (ERRA). It also adopts an interest rate index for undercollections and charges to ERRA tariff. This proceeding is closed.

(Comr Peevey - ALJ Galvin)

**Outcome Held (1/22/04. Further consideration.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**59**

[3004]

**A01-10-011 - Pacific Gas and Electric Company (PG&E).**

This decision addresses the gas structure, rates, and revenue requirement for PG&E's natural gas transmission and storage system for 2004. This proceeding is closed.

(Comr Lynch - ALJ Wong)

**Outcome Defeated**

Yes: (Lynch, Wood)

No: (Brown, Kennedy, Peevey)

Abstain: (none)

Absent: (none)

**59a**

[3052]

**ALTERNATE TO ITEM 3004**

This alternate adopts most of the proposed decision's recommendations regarding the Gas Accord Phase Two. The alternate differs from the proposed decision in one area of local transmission issues. Specifically, the alternate directs PG&E to develop proposals that adopts a backbone-only rate (with modifications) for noncore customers that connect directly to PG&E's backbone system. The alternate sets a deadline of March 19, 2004, for PG&E to develop proposals for the new backbone-only rate and the local transmission rate, subject to Energy Division review and approval. The new rates will go into effect January 1, 2005.

(Comr Peevey)

**Outcome Signed (Comr. Lynch reserves the right to file a dissent.)**

[D03-12-061](#)

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

**60**

[3005]

**R01-10-024 - Order Instituting Rulemaking to establish policies and cost recovery mechanisms for generation procurement and renewable resource development.**

This decision adopts a long-term regulatory framework under which California's three largest investor-owned utilities, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company, will plan for and procure the energy resources and demand-side investments necessary to ensure their customers receive reliable service at low and stable prices.

(Comr Peevey - ALJ Walwyn)

**Outcome Signed (Comr. Lynch will file a concurrence.)**

[D03-12-062](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**60a**

[3009]

**ALTERNATE TO ITEM 3005**

This decision addresses the same issues as the ALJ's proposed decision, but differs in its recommendations in at least the following major areas: resource adequacy, transmission resources, treatment of qualifying facilities, development of procurement incentive mechanisms, and details of short-term plan approval.

(Comr Peevey)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**60b**

[3063]

**ALTERNATE TO ITEM 3005**

This alternate decision addresses many of the same issues as in the proposed decision. While it provides guidance on procurement, this decision emphasizes giving the utilities the authority necessary to implement their 2004 short-term procurement plans while discouraging the utilities from longer duration procurement purchases while their long-term plans are under further development in the coming year. This decision provides the opportunity to incorporate various critical elements of the utilities' long-term plans, such as Renewable Portfolio Standard benchmarks, Community Aggregation rules and energy efficiency program administration, that are essential to meet California's electricity needs in the future and may be neglected without a complete long-term procurement framework in place.

(Comr Lynch)

**Outcome Defeated**

Yes: (Lynch, Wood)

No: (Brown, Kennedy, Peevey)

Abstain: (none)

Absent: (none)

**61**

[3066]

**A03-06-002 - San Diego Gas & Electric Company (SDG&E).**

This decision adopts a 2003 Energy Resource Recovery Account (ERRA) revenue requirement forecast of \$515.3 million and a 2004 ERRA revenue requirement forecast of \$282.6 million for SDG&E. This decision also sets SDG&E's 2003 ERRA trigger amount at \$21.419 million and threshold amount at \$26.773 million. It further establishes a procedure to distribute any 2003 year-end balance. This proceeding is closed.

(Comr Peevey - ALJ Galvin)

**Outcome Signed**

[D03-12-063](#)

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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**Energy Resolutions and Written Reports****62 Res E-3852 - Pacific Gas and Electric Company (PG&E).**

[2919]

This resolution denies PG&E's request to reimburse the California Department of Water Resources for payments for PG&E's renewable transitional procurement contracts on a monthly basis for actual costs incurred. (Advice Letter 2354-E, filed March 10, 2003)

Agenda 3124, Item 50 12/4/2003 (Staff)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**63**

[2945]

**Res G-3354 - Pacific Gas and Electric Company (PG&E), Southern California Edison (Edison), San Diego Gas & Electric Company (SDG&E), Southern California Gas Company (SoCalGas), and Southwest Gas Corporation (SWG).**

PG&E, Edison, SDG&E, SoCalGas, and SWG request tariff revisions to reflect a decrease in the Income Tax Component of Contribution associated with Contributions in Aid of Construction.

(PG&E Advice Letter (AL) 2466-G/2386-E, filed June 6, 2003, Edison AL 1715-E, filed June 19, 2003, Edison AL 120-G, filed June 19, 2003, SDG&E AL 1505-E/1382-G, filed June 11, 2003, SoCalGas AL 3267, filed June 12, 2003, SWG AL 692, filed July 14, 2003)

Agenda 3124, Item 51 12/4/2003 (Staff)

**Outcome Held (1/22/04)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**64**

[2979]

**Res E-3857 - Pacific Gas and Electric Company (PG&E).**

PG&E requests approval of procurement contracts for up to fifty percent of PG&E's 2004 non-baseload net open position as authorized in D03-08-066.

(Advice Letter 2427-E, filed September 30, 2003.)

Agenda 3124, Item 52 12/4/2003

**Outcome Held (1/8/04)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**65**

[2986]

**Res E-3847 - Pacific Gas and Electric Company (PG&E).**

PG&E seeks approval to revise Electric Rate Schedule E-NET - Net Energy Metering, to estimate the departed load of net-metered solar and wind customer-generators for the purpose of calculating the Public Goods Charge (PGC), in response to Assembly Bill 58. This resolution rejects PG&E's proposed method of calculating the PGC, and reaffirms the PGC will continue to be calculated based on the customer's net consumption. (Advice Letter 2405-E, filed August 5, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**66**

[3053]

**Res E-3860 - San Diego Gas & Electric Company (SDG&E).**

SDG&E requests expedited approval to reallocate energy efficiency and self-generation program dollars to fund the Rebuild a Greener San Diego program. (Advice Letter 1540-E/1414-G, filed November 25, 2003)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)



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**Telecommunication Orders****67**  
[2376] **R01-09-001 - Order Instituting Rulemaking on the Commission's own motion to assess and revise the new regulatory framework for Pacific Bell (Pacific) and Verizon California Incorporated.**

I01-09-002 - Related matters. This proposed decision addresses Phase 2A audit issues. The proposed decision finds that Pacific properly reported its pension and depreciation expenses during 1997 - 1999, but misreported its expenses during this period for PBOPs and income taxes. The proposed decision also finds that Pacific improperly withdrew funds from one of its PBOP trusts in 1999. These findings, together with the findings reached by the Commission in Phase 2B, result in Pacific owing a refund to its ratepayers in the amount of \$661 million, including interest through July 2003.

(Comr Kennedy - ALJ Kenney)

Agenda 3123, Item 38 11/13/2003 (Staff)

**Outcome Held (1/8/04)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**67a**  
[2378] **ALTERNATE TO ITEM 2376**

This proposed alternate decision of the assigned Commissioner finds that Pacific Bell properly reported its pension and depreciation expenses during 1997-1999. The alternate finds that Pacific Bell properly wrote off certain PBOP's regulatory assets as expenses in 1998 when the Commission eliminated a rate surcharge that supported this regulatory asset. On other issues, the alternate finds that Pacific misreported expenses during this period concerning PBOPs sub-accounts and concerning income taxes. The alternate decision also finds that Pacific improperly withdrew funds from one of its PBOP trusts in 1999. Compared to the Administrative Law Judge's proposed decision, the alternate decision finds a lower level of misreported costs and orders a smaller refund. The alternate orders a total of \$162 million in refunds to ratepayers, including interest through July 2003.

(Comr Kennedy)

Agenda 3123, Item 38a 11/13/2003 (Staff)

**Outcome Held (1/8/04)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**68**

[2571]

**A99-03-025 - Roseville Telephone Company (Roseville).**

On May 3, 2002, Roseville filed a petition to modify D01-06-077. Specifically, it asks to remove the requirement to share 50% of its earnings between the benchmark rate of return and the ceiling rate of return. This decision denies the petition and also requires Roseville to file for its next NRF review no later than 90 days after a final decision in Rulemaking 01-09-001 and Investigation 01-09-002, the NRF reviews for Pacific Bell Telephone Company and Verizon California Incorporated. This proceeding is closed.

(Comr Lynch - ALJ O'Donnell)

Agenda 3118, Item 42 9/4/2003 (Kennedy);

Agenda 3120, Item 46 10/2/2003 (Kennedy);

Agenda 3122, Item 39 10/30/2003 (Brown);

Agenda 3123, Item 39 11/13/2003 (Lynch);

Agenda 3124, Item 54 12/4/2003 (Brown)

**Outcome Held (1/8/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**68a (Rev.)**

[2880]

**ALTERNATE TO ITEM 2571**

This alternate modifies D01-06-077 to suspend the requirement to share 50% of its earnings between the benchmark rate of return and the ceiling rate of return. The alternate also requires Roseville to file for its next NRF Review no later than 90 days after a final decision in the policy phase of R01-09-001/I01-09-002. This proceeding is closed.

(Comr Kennedy)

Agenda 3122, Item 39a 10/30/2003 (Brown);

Agenda 3123, Item 39a 11/13/2003 (Lynch);

Agenda 3124, Item 54a 12/4/2003 (Brown)

12/17/2003 - This revision was not shown on the Agenda mailed to the public.

**Outcome Held (1/8/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**69**

[2513]

**R00-02-004 - Order Instituting Rulemaking on the Commission's own motion to establish consumer rights and consumer protection rules applicable to all telecommunications utilities.**

The Commission adopts General Order No. ###, Rules Governing Telecommunications Consumer Protection, applicable to all Commission-regulated telecommunications utilities. G.O. ### sets forth: in Part 1, a telecommunications consumers' Bill of Rights; in Part 2, a set of Consumer Protection Rules all carriers must follow to protect those rights; in Part 3, Rules Governing Billing for Non-communications-Related Charges; and in Part 4, Rules Governing Slamming Complaints. The proceeding remains open to consider changes to the current limitation of liability provisions, rules protecting non-English speaking consumers, and a telecommunications consumer education program. (Comr Wood - ALJ McVicar)

Agenda 3119, Item 40 9/18/2003 (Staff);

Agenda 3120, Item 45 10/2/2003 (Brown);

Agenda 3122, Item 38 10/30/2003 (Brown);

Agenda 3124, Item 53 12/4/2003 (Wood)

**Outcome Held (1/22/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**70**

[2636]

**R01-09-001 - Order Instituting Rulemaking on the Commission's own motion to assess and revise the new regulatory framework for Pacific Bell (Pacific) and Verizon California Incorporated.**

I01-09-002 - Related matters. This proposed decision addresses Phase 2B audit issues. The proposed decision sustains most of the findings of an audit of Pacific's intrastate financial results for the period 1997-1999 that were considered during Phase 2B. This decision should be read in conjunction with the findings reached by the Commission in Phase 2A of this proceeding, which concludes that as a result of both decisions, Pacific owes a refund to its ratepayers in the amount of \$661 million, including interest through July 2003.

(Comr Kennedy - ALJ Thomas)

Agenda 3123, Item 40 11/13/2003 (Staff)

**Outcome Held (1/8/04)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**70a**

[2637]

**ALTERNATE TO ITEM 2636**

I01-09-002 - Related matters. This alternate proposed decision resolves Phase 2B audit issues. The alternate proposed decision sustains the analysis in the audit conducted by Overland on 51 of 68 issues, and reverses its findings on 17. The alternate proposed decision accepts Pacific's claim of lawyer-client confidentiality concerning certain information, but prohibits the booking of contingent liability accruals that rely on this information. The alternate resolves ambiguities in the Commission's process for resolving discovery disputes. Consistent with D01-06-077, the alternate orders Pacific to pay interest on the amounts due to customers at the 90-day commercial paper rate.

(Comr Kennedy)

Agenda 3123, Item 40a 11/13/2003 (Staff)

**Outcome Held (1/8/04)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**71**

[2931]

**C02-11-053 - Pasadena Neighborhood Coalition vs. Altrio Communications, Inc. (Altrio).**

Defendant Altrio has violated the terms of the Limited Facilities-Based Certificate of Public Convenience and Necessity (LFB CPCN) that was granted in D01-07-022. Altrio may not provide telephone service over its Open Video System network beyond its initial Pasadena hub unless it has obtained a full facilities-based CPCN. This proceeding is closed.

(Comr Brown - ALJ Simon)

Agenda 3123, Item 43 11/13/2003 (Lynch);

Agenda 3124, Item 56 12/4/2003 (Brown)

**Outcome Signed (Comr. Lynch reserves the right to file a concurrence.)**

D03-12-064

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**72**

[2976]

**A01-02-012 - Verizon California Inc. (Verizon).**

This decision grants Verizon authority to re-categorize its Business Billable Repair Service (BRS), Business Inside Wire Maintenance Service Plan (IWMP), and CentraNet IWMP from Category II to Category III service offerings. Verizon is also authorized to increase the first weekday hour or less of its Business BRS ceiling rate from \$85 to \$100. The decision denies Verizon authority to re-categorize its Residential BRS, Residential IWMP, and Landlord IWMP from Category II to Category III. This proceeding is closed.

(Comr Wood - ALJ Galvin)

**Outcome Held (2/11/04. For alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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**Water/Sewer Orders**
**73**

[2368]

**A02-11-057 - Point Arena Water Works, Inc.**

For an order authorizing a rate increase in rates subject to refund producing additional annual revenues of \$70,137 or 56.9% for the test year 2002. This interim decision determines that 1995 tax refunds will not be included in the scope of this 2002 test year general rate case.

(Comr Wood - ALJ Bushey)

Agenda 3116, Item CA-16 7/10/2003 (Staff);

Agenda 3117, Item 5 8/21/2003 (Lynch);

Agenda 3118, Item 44 9/4/2003 (Lynch);

Agenda 3120, Item 48 10/2/2003 (Wood);

Agenda 3123, Item 45 11/13/2003 (Peevey)

**Outcome Held (2/11/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**73a**

[2768]

**ALTERNATE TO ITEM 2368**

This alternate grants the City of Point Arena an opportunity to have an evidentiary hearing regarding the accounting and ratemaking treatment of income tax refunds.

(Comr Lynch)

Agenda 3120, Item 48a 10/2/2003 (Wood);

Agenda 3123, Item 45a 11/13/2003 (Peevey)

**Outcome Held (2/11/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**88 (Rev.)**

[2973]

**A03-08-014 - Lennar Corporation, LNR Property Corporation, LNR NWHL Holdings, Inc., NWHL Investment LLC, NWHL GP LLC, NWHL Acquisition, L.P., Newhall Land and Farming Company, and Valencia Water Company.**

This decision conditionally approves the transfer of indirect control of Valencia Water Company from Newhall Land and Farming Company to Lennar Corporation and LNR Property Corporation. This proceeding is closed.

(Comr Kennedy - ALJ Bushey)

12/16/2003 - This item appeared as (74) under Regular Agenda/Transportation/Rail Safety Orders section on the agenda distributed to the public.

**Outcome Held (1/22/04 Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)



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## Commissioner's Reports

**75** Proclamation regarding Southern California fires.  
[3072] (Comr Kennedy, Comr Wood)

**Outcome Information Only**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)



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## Management Reports and Resolutions

**76** Management report on consumer and carrier complaints about wireless number portability  
[3055] implementation and staff responses. (Directors Clark, Leutza, and Serizawa)

**Outcome Information Only**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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## Closed Session

*This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the*

### Non-Federal

77

[3016]

**R01-12-009 - Conference with Legal Counsel – Application for Rehearing**

Disposition of Applications for rehearing of D03-06-072, filed by California Water Association and its Class A Water Utility Members and Southern California Water Company. In this decision, the Commission revised procedures for recovery from water balancing accounts existing on or after November 29, 2001.

**Outcome Held (1/22/04. Further deliberation and possible alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)